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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

CIENA CORPORATION,

Defendant.

CASE NO. 3:20-CV-08628-EMC

**DEFENDANT CIENA CORPORATION'S
STATEMENT OF RECENT DECISION
PURSUANT TO LOCAL RULE 7-3(D)(2)**

Defendant Ciena Corporation (“Ciena”) respectfully submits this statement of recent decision in support of its Partial Motion to Dismiss (Dkt. 22) pursuant to Local Rule 7-3(d)(2).

Exhibit A is an opinion from the Eastern District of Texas construing claim terms of the same two patents that Capella Photonics, Inc. (“Capella”) asserts in this action. *Capella Photonics, Inc. v. Fujitsu Network Comm’ns., Inc.*, Case No. 2:20-cv-00076-JRG, Dkt. 81 (E.D. Tex. Feb. 9, 2021); *Capella Photonics, Inc. v. Infinera Corp.*, Case No. 2:20-cv-00077-JRG, Dkt. 99 (E.D. Tex. Feb. 9, 2021) (attached as Exhibit A). In the pending motion to dismiss, Capella argued that it did not narrow its claims when it changed the term “ports” to “fiber collimator ... ports” so that absolute intervening rights do not apply. *See, e.g.*, Dkt. 27 at 20. In the attached order, the Eastern District of Texas rejected Capella’s argument and found “port” is not “limited to ‘fiber collimator port,’” and “a fiber collimator ‘providing’ a port” does **not** “mean[] that the port is necessarily a fiber collimator port.” Ex. A at 21.

Dated: February 17, 2021

Respectfully submitted,

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